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Budget and programme of work for the biennium 2016-2017 and the Environment Fund and other budgetary matters

Revision of the financial rules of the United Nations Environment Programme

Report of the Executive Director

I. Background

1. Following the decision of the General Assembly to adopt the International Public Sector Accounting Standards (IPSAS), effective 1 January 2014, it became necessary to revise the financial rules of the United Nations Environment Programme (UNEP) in order to harmonize them with IPSAS.

2. At its twenty-seventh session, the Governing Council of UNEP acknowledged the need for a timely and efficient transition to IPSAS and other revisions of the financial rules that may be required to improve the efficiency, effectiveness, accountability and responsiveness of UNEP, and requested the Executive Director, in consultation with the relevant United Nations bodies and the Committee of Permanent Representatives, to take action and to submit a report to the Governing Council at its next session.

Briefing to the Committee of Permanent Representatives, 25 September 2013

3. At the annual meeting of the subcommittee of the Committee of Permanent Representatives held on 25 September 2013, a representative of the secretariat gave a presentation on progress made and steps taken towards the approval of revisions of the financial rules of UNEP, noting that in April 2013, the Controller had established a joint, four-member working group, comprising the Department of Management, the United Nations Office at Nairobi, the United Nations Human Settlements Programme (UN-Habitat) and UNEP, to draft revisions of the financial rules of UNEP and UN-Habitat. He informed the Committee that the Controller had also requested the United Nations Office at Nairobi to prepare a matrix comparing the newly adopted United Nations Financial Regulations and Rules with the existing UNEP financial rules, with the aim of ultimately proposing changes to ensure harmonization. UNEP had reviewed the matrix and made amendments, which had been submitted to the Office of the Controller in June 2013.

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4. Subsequently, the Office for Operations and Corporate Services of UNEP drafted a note, to be submitted to the Committee of Permanent Representatives, addressing questions on the matter posed by members of the Committee at its meeting on 25 September. However, the submission of the note was deferred until 5 December 2013, as draft revisions of the financial rules of UNEP were received from the Office of the Controller on 3 December 2013.

Draft revisions of the financial rules of UNEP circulated by the Controller

5. On 3 December 2013, the Office of the Controller circulated draft revisions of the financial rules for review by UNEP management. The draft accorded with the proposal put forward by UNEP, with one exception: it included a proposal by the Department of Management of the United Nations Secretariat to cancel the Executive Director's authority over procurement for contracts for services and goods, currently enshrined in the UNEP financial rules and revisions thereto. Such a change would constitute a significant deviation from the Executive Director's current authority and accountability for activities financed from the Environment Fund and associated trust funds.

6. UNEP has sought the views of the Office of Legal Affairs on procurement matters. In a memorandum dated 20 September 2013, the Office confirmed its opinion of 2007 that procurement funded from the Environment Fund currently remains under the authority of the Executive Director. This is consistent with the opinion of the internal auditors expressed in their report of 2011 on procurement at the United Nations Office at Nairobi.

7. The Executive Directors of UNEP and UN-Habitat met with the Controller and emphasized the importance of: (a) their accountability to their governing bodies; (b) their compact with the Secretary-General; and (c) their Programmes' operational requirements. It was decided that a working group should be convened to discuss options relating to procurement authority and to make recommendations in that regard to the principals (the Under-Secretary-General for Management and his team and the Executive Director of UNEP).

8. The working group was convened on 23 January 2014 and was attended by representatives of UNEP, UN-Habitat, the United Nations Office at Nairobi, the Office of the Controller and the Office of Central Support Services. The UNEP representative restated the position of UNEP that the Executive Director should exercise full procurement delegation in the discharge of his accountability to stakeholders, clarifying that UNEP did not intend to establish its own procurement services. He noted that to date, UNEP had broadly delegated procurement authority to the Department of Management and the United Nations Office at Nairobi and relied primarily on their services, as well as on other service providers within the United Nations system. This was also the case with regard to the Programme's various strategic presences throughout the world, including its regional offices. He expressed the view that UNEP should retain the authority to assign procurement cases to the United Nations Office at Nairobi as service provider and to the United Nations Development Programme, the United Nations Office for Project Services and any other United Nations service provider that met its operational needs most economically and efficiently. UNEP would continue to do so in compliance with the United Nations Financial Regulations and Rules and the procurement guidelines.

9. He noted that the Executive Director of UNEP needed to issue delegations of authority to the managers of the secretariats of the environmental conventions, which were treaty bodies separate from the General Assembly (as confirmed by the Office of Legal Affairs), through which member States had specifically requested the Executive Director of UNEP to provide secretariat services, and to which the member States, through the governing body of UNEP, have agreed to provide such services through UNEP. The Executive Director was thus accountable to member States and other parties for the management of the secretariats, including for procurement activities.

10. The representative of UNEP stated that the level of risk to which the organization was exposed through UNEP procurement was very limited. In 2013, the annual procurement amount was $21.5 million, of which $8.3 million related to procurement actions below $40,000, half of which were for "low value procurement" (below $4,000). Most of the high-value procurement (worth a total of $8.4 million) was for the rental of premises, usually extensions of current leases.

11. He noted that occasionally, however, urgent procurement was needed by UNEP, especially in the framework of operations in post-conflict and post-disaster contexts, with regard to which knowledge of local markets and the capacity for rapid procurement were required. In addition, much of the procurement needs of UNEP were based on local requirements in some 40 locations worldwide, in addition to projects in the regions. The United Nations Office at Nairobi was usually not equipped to provide such procurement services. Although the vast majority of UNEP procurement was done through the Department of Management and the United Nations Office at Nairobi, it was the view of

Executive Director that it was imperative that UNEP maintain the capacity to work with other service providers, in particular those located on the ground, including the United Nations Development Programme and the United Nations Office for Project Services.

12. The representative further noted that in terms of risk management, the Executive Director delegated procurement authority only to qualified personnel, who were required to undertake relevant training prior to exercising such authority. UNEP had conducted both online and instructor-led training to staff members charged with procurement responsibilities (145 staff members were trained in 2013).

II. The way forward

13. According to the existing regulatory framework, the General Assembly establishes the United Nations regulations and the Secretary-General issues the financial rules. The implementation of the regulations and rules is defined through procedures and guidelines set out in Secretary-General's bulletins, administrative instructions and policy and procedural manuals.

14. UNEP notes that the draft revisions to the financial rules dated 3 December 2013 proposed by the Office of the Controller, in clause 201.1, clarified the Executive Director's source of delegated authority. Clause 201.1, as revised by the Controller, reads:

> These rules shall govern the financial management of the Fund of the United Nations Environment Programme (hereinafter referred to as the Fund) established by General Assembly resolution 2997 (XXVII) and other extrabudgetary resources. They are promulgated pursuant to the Financial Regulations of the United Nations as amended in respect of the Fund by General Assembly resolution 3192 (XXVIII). The Secretary-General hereby delegates to the Executive Director of the United Nations Environment Programme (UNEP) authority and responsibility for the implementation of these Financial Rules, for the proper management of the Fund and associated funds. The Executive Director may in turn delegate authority for specific aspects of these Financial Rules to other United Nations officials. These delegations of authority will state whether designated officials may further delegate this authority.

15. UNEP agrees with this provision and believes that it should also apply to procurement authority. Rather than changing the rule on procurement authority, procedures could be further clarified through Secretary-General's bulletins or other forms of internal United Nations arrangements. These could specify conditions of sub-delegation, training and thresholds.

16. Further consultations between the Department of Management, the United Nations Office at Nairobi, UNEP and UN-Habitat were held on 27 March 2014, at which the Director of Procurement reported that the Department of Management would issue a proposal by mid-April 2014, to be considered by the respective under-secretaries-general of UNEP, UN-Habitat and the Department of Management, as well as the Controller. On 3 April 2014, UNEP sent a memorandum to the Director of Procurement providing input.

Annex

Note from the Executive Director to the Committee of Permanent Representatives on financial rule 203.3, 20 November 2013

The annual meeting of the subcommittee of the Committee of Permanent Representatives held on 25 September 2013 included a debate on the proposed revision of UNEP financial rules. At the request of the subcommittee, the present note provides further background and explanation concerning the proposed amendment of financial rule 203.3 on contributions from non-governmental organizations. It should be noted that in addition to this note, the Secretariat will produce a paper for the meeting scheduled for 14 January 2014, which will discuss an agenda item on revisions to the financial rules. Rule 203.3 of the Revised Legislative and Financial Texts regarding the United Nations Environment Programme (UNEP) and the Environment Fund 2003 reads as follows: "Voluntary contributions from non-governmental sources in excess of $500,000 shall be accepted only with prior approval of the Governing Council or its subsidiary body".

The Executive Director wishes to call the attention of Governments to the fact that the above rule hinders the effective acceptance of funds from non-governmental sources.

Contributions from non-governmental sources are subject to the UNEP partnerships policy and guidelines, which require such contributors to be reviewed and cleared by the Partnerships Committee prior to receipt of funds. UNEP safeguards and due diligence have been reviewed by auditors of the Office of Internal Oversight Services and deemed "satisfactory", which is the highest rating possible.

In addition, this rule could prove incompatible with timelines that contributors themselves have, delaying and at times impeding the acceptance and utilization of funds.

The Executive Director would also like to call the attention of Governments to the fact that the United Nations Financial Regulations and Rules have no similar rule. In addition, rule 203.2, which reads "Voluntary contributions shall be accepted without limitations to use for a specific project or purpose. In respect of contributions other than from Governments, the Executive Director may permit exceptions to this rule and shall report thereon to the governing body of the United Nations Environment Programme", ensures that the Committee of Permanent Representatives is systematically informed of all funds received.

Furthermore, following a query by one representative during a Committee of Permanent Representatives subcommittee meeting, the secretariat has further investigated and is unaware of any instance in which such a request was forwarded to the Committee and not endorsed, which also puts in question the added value of this rule.

The Executive Director therefore proposes the abolishment of rule 203.3.